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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/679,791	10/06/2003	Lawrence J. DeAngelis		3726

7590 05/03/2006

LAWRENCE J. DeANGELIS  
124 LOTUS STREET  
OCEANSIDE, CA 92054

EXAMINER
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SHEIKH, ASFAND M

ART UNIT	PAPER NUMBER
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3627

DATE MAILED: 05/03/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/679,791	DEANGELIS, LAWRENCE J.	
	<b>Examiner</b>	<b>Art Unit</b>	
	Asfand M. Sheikh	3627	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 06 October 2003.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-30 is/are pending in the application.
- 4a) Of the above claim(s) 19-30 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-18 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)             | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)    | Paper No(s)/Mail Date. _____  |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____   | 6) <input type="checkbox"/> Other: _____                                    |

**DETAILED ACTION**

1. During a telephone conversation with Lawrence J. DeAngelis on 7 April 2006 a provisional election was made without traverse to prosecute the invention of Group I, claim 1-18. Affirmation of this election must be made by applicant in replying to this Office action. Claims 19-30 withdrawn from further consideration by the examiner, 37 CFR 1.142(b), as being drawn to a non-elected invention.

***Claim Rejections - 35 USC § 103***

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

3. Claims 1-13 and 18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Green et al. United States Patent 5,664,110 (hereinafter Green) in view of Davis et al. United States Patent Application Publication 2002/0087430 (hereinafter Davis).

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**As per claim 1**, Green discloses electronically collecting a plurality of barcode numbers with a data collection device communicatively coupled to the terminal (col.3, lines 5-21); electronically connecting to a shopper assistance portal using a terminal device, the shopper assistance portal maintaining information relating to a plurality of merchants and a plurality of product offered by the plurality of merchants (col. 2, lines 52-67 and col. 3, lines 1-3); downloading the information relating to a plurality of merchants and a plurality of products offered by the plurality of merchants to the terminal device from the shopper assistance portal and saving the information in a memory associated with the terminal device (col. 3, lines 39-63 and col. 4, lines 4-21); creating a potential order in the form of an active list of selected products from the information relating to a plurality of merchants and a plurality of products offered by the plurality of merchants saved in the memory (col. 4, lines 22-39); uploading the active list of selected products to the shopper assistance portal from the terminal device (col. 4, lines 61-67 and col. 5, lines 1-9); and electronically providing an active list of selected products to a merchant (col. 13, lines 2-8).

Green fails to explicitly disclose electronically providing at least a first portion of the active list of selected products

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to at least a first merchant of the plurality of merchants for placing at least a first portion of the order.

However Davis discloses electronically providing at least a first portion of the active list of selected products to at least a first merchant of the plurality of merchants for placing at least a first portion of the order (0026-0034).

It would be obvious to one skilled in the art at the time the invention was made to modify the teachings of Green to include electronically providing at least a first portion of the active list of selected products to at least a first merchant of the plurality of merchants for placing at least a first portion of the order as taught by Davis. The motivation to combine Davis would provide a system that can be used to purchase products from any merchant having an electronic commerce system (0006).

**As per claim 2,** Green discloses **one of** scanning a barcode symbol with a barcode scanner (col. 3, lines 5-21), speaking a barcode number into a digital voice recorder, keying-in a barcode number, digitally importing a barcode number, and scanning a RFID tag number with an RFID scanner.

**As per claim 3**, Green discloses wherein the data collection device can be activated a plurality of times to build the active list (col. 3, lines 5-21 and col. 8, lines 28-35).

**As per claim 4**, Green fails to disclose electronically providing a second portion of the active list of selected products to a second merchant of the plurality of merchants for placing a second portion of the order.

However Davis discloses electronically providing a second portion of the active list of selected products to a second merchant of the plurality of merchants for placing a second portion of the order (0026-0034).

It would be obvious to one skilled in the art at the time the invention was made to modify the teachings of Green to include electronically providing a second portion of the active list of selected products to a second merchant of the plurality of merchants for placing a second portion of the order as taught by Davis. The motivation to combine is the same as claim 1, above.

**As per claim 5**, Green discloses displaying the plurality of products on the terminal device (col. 7, lines 66-67 and col. 8, lines 1-8); electronically selecting a first product offered by

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a first manufacture of the plurality of products displayed (col. 7, lines 66-67 and col. 8, lines 1-8); electronically requesting a comparison of other products with the first product (col. 8, lines 51-62); and, displaying similar products offered by other manufacturers to the first product (col. 8, lines 51-62; Examiner interprets "comparable items" could be any product that can be compared to the first product).

**As per claim 6,** Greed discloses displaying a plurality of products on the terminal device (col. 7, lines 66-67 and col. 8, lines 1-8); electronically selecting a first product offered by a first manufacture of the plurality of products displayed (col. 7, lines 66-67 and col. 8, lines 1-8); electronically requesting a comparison of other products with the first product col. 8, lines 51-62); and, displaying similar products to the first product being offered by the first manufacture (col. 8, lines 51-62; Examiner interprets "comparable items" could be any product that can be compared to the first product).

**As per claim 8,** Green discloses selecting a product displayed on the terminal device (col. 7, lines 66-67 and col. 8, lines 1-8); and, providing a detailed description of the

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selected product from the shopper assistance portal to the terminal device (col. 7, lines 66-67 and col. 8, lines 1-8).

**As per claim 9**, Green discloses electronically submitting a request for a search of a product to the shopper assistance portal (col. 9, lines 54-65; Examiner interprets "invoke... sub menus" to be a form of a search); and, displaying products by the shopper assistance portal responsive to the requested search to the terminal device (col. 9, lines 54-65).

**As per claim 10**, Green discloses wherein the terminal device is a stand-alone device and wherein the step of electronically connecting to a shopper assistance portal using a terminal device comprises using the stand-alone device to connect to the shopper assistance portal over the Internet (col. 2, lines 52-63, col. 4, lines 61-67 and col. 5, lines 1-21).

**As per claim 11**, Green discloses wherein the terminal device is a personal computer and wherein the step of electronically connecting to a shopper assistance portal using a terminal device comprises using the personal computer to connect to the shopper assistance portal over the direct distance dial



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telephone network (col. 2, lines 52-63, col. 4, lines 61-67 and col. 5, lines 1-21).

**As per claim 12**, Green discloses wherein the terminal device is a programmable web enabled cell phone and wherein the step of electronically connecting to a shopper assistance portal using a terminal device comprises using the programmable web enabled cell phone to connect to the shopper assistance portal over the Internet (col. 2, lines 52-63, col. 4, lines 61-67 and col. 5, lines 1-21; Examiner interprets "user device" and "telephone communication, either cellular..." to represent a cellular based phone).

**As per claim 13**, Green discloses wherein the terminal device is a stand-alone device and wherein the step of electronically connecting to a shopper assistance portal using a terminal device comprises using the stand-alone device to connect to the shopper assistance portal over a direct distance dial telephone network (col. 2, lines 52-63, col. 4, lines 61-67 and col. 5, lines 1-21).

**As per claim 18**, Green discloses saving the active list on the terminal device (col. 3, lines 29-63).

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4. Claims 14-17 rejected under 35 U.S.C. 103(a) as being unpatentable over Green et al. United States Patent 5,664,110 (hereinafter Green) in view of Davis et al. United States Patent Application Publication 2002/0087430 (hereinafter Davis) as applied to claim 1 above, and further in view of Wood et al. United States Patent Application Publication 2000/0034571 (hereinafter Wood).

**As per claim 14**, Green and Davis both fail to explicitly disclose providing the shopper assistance portal with a geographical location of placement of the order; and, displaying a list of merchants offering selected products in the potential order that service the location.

However Wood discloses providing the shopper assistance portal with a geographical location of placement of the order; and, displaying a list of merchants offering selected products in the potential order that service the location (0033).

It would be obvious to one skilled in the art at the time the invention was made to modify the teachings of Green and Davis to include providing the shopper assistance portal with a geographical location of placement of the order; and, displaying a list of merchants offering selected products in the potential order that service the location as taught by Wood. The

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motivation to combine Wood would offer an online consumer ordering products to have advantages that are not at physical store locations: offer speed of delivery, convince, and additional information to a consumer (0003).

**As per claim 15**, Green and Davis both fail to explicitly disclose wherein the user of the terminal device provides the shopper assistance portal with an alternative geographical location.

However Wood discloses wherein the user of the terminal device provides the shopper assistance portal with an alternative geographical location (0032).

It would be obvious to one skilled in the art at the time the invention was made to modify the teachings of Green and Davis to include wherein the user of the terminal device provides the shopper assistance portal with an alternative geographical location as taught by Wood. The motivation to combine is the same as claim 14, above.

**As per claim 17**, Green discloses electronically completing purchase of a selected product from a listed merchant (col. 3, lines 39-63).

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5. Claim 16 is rejected under 35 U.S.C. 103(a) as being unpatentable over Green et al. United States Patent 5,664,110 (hereinafter Green) in view of Davis et al. United States Patent Application Publication 2002/0087430 (hereinafter Davis) and Wood et al. United States Patent Application Publication 2000/0034571 (hereinafter Wood) as applied to claim 14 above, and further in view of Solomon United States Patent Application Publication 2002/0069134.

**As per claim 17**, Green, Davis and Wood all fail to explicitly disclose sorting the list of merchants as to the number of products each listed merchant has of the potential order.

However Solomon discloses sorting the list of merchants as to the number of products each listed merchant has of the potential order (0419).

It would be obvious to one skilled in the art at the time the invention was made to modify the teachings of Green, Davis, and Wood to include sorting the list of merchants as to the number of products each listed merchant has of the potential order as taught by Solomon. The motivation to combine Wood would allow for an easier to understand listing of total products that are offered by merchants.

**Conclusion**

6. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. United States Patent 4,654,482 [Home Merchandise Ordering Telecommunications Terminal] and United States Patent 5,978,773 [System and Method for Using an Ordinary Article of Commerce to Access a Remote Computer].

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Asfand M. Sheikh whose telephone number is (571) 272-1466. The examiner can normally be reached on M-F 8a-4:30p.

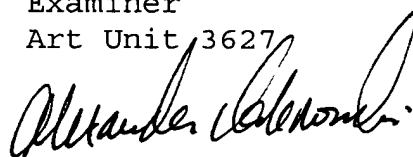
If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Alexander G. Kalinowski can be reached on (571) 272-6771. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Asfand M Sheikh  
Examiner  
Art Unit 3627

ams



**ALEXANDER KALINOWSKI  
SUPERVISORY PATENT EXAMINER**